SURFACE RIGHTS BOARD

FOURTEENTH ANNUAL REPORT

1985

Alberta

FOURTEENTH ANNUAL REPORT

of the

SURFACE RIGHTS BOARD

appointed under

the SURFACE RIGHTS ACT

for the year 1985

C.J. (CEC) PURVES

CHAIRMAN

K.J. SPREAD

VICE-CHAIRMAN

MEMBERS:

J.J. Leddy

D.N. Macdonald

A.D. MacKenzie

L.N. Miller

F. Martin

S.C. Wishloff

E.A. Shupenia

Executive Director

J.E. Hauck

Secretary

Honourable E.L. Fjordbotten
Minister of Agriculture
418 Legislature Building
EDMONTON, Alberta
T5K 2B6

Sir:

I have the honour to submit the Fourteenth Annual Report of the Surface Rights Board for the calendar year ended December 31, 1985.

The number of orders issued in 1985 totalled 3,944, some 880 less than in 1984. The total number of written decisions issued pursuant to the Administrative Procedures Act was 395. A breakdown of the orders issued follows:

Right of Entry:	Mineral Recovery	363	
	Pipelines	259	
	Power Transmission Lines	47	
	Coal	0	
	SUBTOTAL		669
Compensation			680
Termination			398
Rescission			11
Amending			1,084
Order Determining Costs			7
Partial Termination			36
Varying Rate of Compensation			875
Varying Rate of Compensation and Amending			184
	TOTAL		3,944

.... 2

I have held meetings with farmers' organizations, as well as with oil and gas operators and utility companies and found general satisfaction with surface rights legislation presently in place.

Sections 28 and 30 of the Surface Rights Act came into force on June 1, 1985. Section 28 deals with reviews of Board compensation orders made on or before January 1, 1972, while section 30 deals with reviews of rate of compensation in (1) surface leases that do not relate to pipelines, power transmission lines or telephone lines where the terms of the leases commence before January 1, 1972, and (2) surface leases that relate to major power transmission line structures as defined or designated in regulations, where the terms of the leases commence before January 1, 1977. Although the majority of those older orders and leases have been reviewed and updated by the parties affected on a voluntary basis, the Board does expect to receive some applications for a review of the rate of compensation in those cases where private agreement could not be reached.

The Board began converting to automation through computerization late last fall and, when completed the offices will be far more efficient and provide a faster and better service to the public.

In the next few months, the Board will commence microfilming all of its records, a project which will be completed in the next three years.

The attached statements, 1 to 14, inclusive, provide a detailed analysis of the number, nature and status of all applications and notices of intention dealt with in 1985; statement 15 summarizes the hearings scheduled and held during 1985; statements 16 and 17 relate to appeals to the Courts from decisions of the Board.

Respectfully submitted,

C. J. (Cec) Purves,
Chairman

STATEMENT 1

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT
FOR RIGHT OF ENTRY FOR OIL AND GAS
dealt with in 1985

	CROWN	PRIVATE	TOTAL
APPLICATIONS:			
Carried over from previous year	31	110	141
Received during the year	87	322	409
	118	432	550
APPLICATIONS DISPOSED OF:			
Right of Entry granted			
- compensation determined	62	241	303
- settled independently of Board	6	49	55
No Right of Entry granted			
- application withdrawn	2	13	15
- settled privately	3	28	31
	73	331	404
APPLICATIONS OUTSTANDING:			
No Right of Entry			
- lacking conditions precedent	6	17	23
- to be withdrawn or settled	4	10	14
Right of Entry Issued			
- pending a hearing for compensation ...	33	55	88
- heard - pending a decision on compensation	0	14	14
- to be terminated - awaiting documentation	2	5	7
	45	101	146

STATEMENT 2

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT
FOR RIGHT OF ENTRY FOR PIPELINES
dealt with in 1985

	CROWN	PRIVATE	TOTAL
APPLICATIONS:			
Carried over from previous year	10	257	267
Received during the year	8	264	272
	18	521	539
APPLICATIONS DISPOSED OF:			
Right of Entry granted			
- compensation determined	8	283	291
- settled independently of Board	4	87	91
No Right of Entry granted			
- application withdrawn	0	6	6
- settled privately	0	19	19
	12	395	407
APPLICATIONS OUTSTANDING:			
No Right of Entry			
- lacking conditions precedent	0	4	4
- to be withdrawn or settled	0	17	17
Right of Entry Issued			
- pending a hearing for compensation ...	4	69	73
- heard - pending a decision on compensation	1	19	20
- to be terminated - awaiting documentation	1	17	18
	6	126	132

STATEMENT 3

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT
FOR RIGHT OF ENTRY FOR POWER TRANSMISSION LINES
dealt with in 1985

	CROWN	PRIVATE	TOTAL
APPLICATIONS:			
Carried over from previous year	6	228	234
Received during the year	55	28	83
	61	256	317
APPLICATIONS DISPOSED OF:			
Right of Entry granted			
- compensation determined	25	57	82
- settled independently of Board	6	132	138
No Right of Entry granted			
- application withdrawn	24	3	27
- settled privately	0	0	0
	55	192	247
APPLICATIONS OUTSTANDING:			
No Right of Entry			
- lacking conditions precedent	6	1	7
- to be withdrawn or settled	0	2	2
Right of Entry Issued			
- pending a hearing for compensation ...	0	53	53
- heard - pending a decision on compensation	0	3	3
- to be terminated - awaiting documentation	0	5	5
	6	64	70

STATEMENT 4

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT
FOR RIGHT OF ENTRY FOR COAL
dealt with in 1985

	CROWN	PRIVATE	TOTAL
APPLICATIONS:			
Carried over from previous year	0	2	2
Received during the year	0	0	0
	0	2	2
APPLICATIONS DISPOSED OF:			
Right of Entry granted			
- compensation determined	0	1	1
- settled independently of Board	0	0	0
No Right of Entry granted			
- application withdrawn	0	0	0
- settled privately	0	0	0
	0	1	1
APPLICATIONS OUTSTANDING:			
No Right of Entry			
- lacking conditions precedent	0	1	1
- to be withdrawn or settled	0	0	0
Right of Entry Issued			
- pending a hearing for compensation ...	0	0	0
- heard - pending a decision on compensation	0	0	0
- to be terminated - awaiting documentation	0	0	0
	0	1	1

STATEMENT 5

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT
FOR ALL APPLICATIONS FOR RIGHT OF ENTRY
dealt with in 1985

	CROWN	PRIVATE	TOTAL
APPLICATIONS:			
Carried over from previous year	47	597	644
Received during the year	150	614	764
	197	1211	1408
APPLICATIONS DISPOSED OF:			
Right of Entry granted			
- compensation determined	95	582	677
- settled independently of Board	16	268	284
No Right of Entry granted			
- application withdrawn	26	22	48
- settled privately	3	47	50
	140	919	1059
APPLICATIONS OUTSTANDING:			
No Right of Entry			
- lacking conditions precedent	12	23	35
- to be withdrawn or settled	4	29	33
Right of Entry Issued			
- pending a hearing for compensation ...	37	177	214
- heard - pending a decision on compensation	1	36	37
- to be terminated - awaiting documentation	3	27	30
	57	292	349

STATEMENT 6

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT
FOR TERMINATION OF RIGHT OF ENTRY IN FULL
dealt with in 1985

	CROWN	PRIVATE	TOTAL
APPLICATIONS RECEIVED:			
Carried over from previous year	6	34	40
Received during the year	57	328	385
	63	362	425
APPLICATIONS DISPOSED OF:			
Request for termination granted	58	331	389
Request for termination withdrawn	1	0	1
	59	331	390
APPLICATIONS OUTSTANDING:	4	31	35

STATEMENT 7

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT
FOR TERMINATION IN PART OF RIGHT OF ENTRY
dealt with in 1985

	CROWN	PRIVATE	TOTAL
APPLICATIONS RECEIVED:			
Carried over from previous year	5	12	17
Received during the year	18	14	32
	23	26	49
APPLICATIONS DISPOSED OF:			
Request for termination in part granted	17	16	33
Request for termination in part withdrawn ...	1	8	9
	18	24	42
APPLICATIONS OUTSTANDING:	5	2	7

STATEMENT 8

SURFACE RIGHTS BOARD

SUMMARY OF RATE OF COMPENSATION REVIEWS PURSUANT TO SECTION 27 OF THE SURFACE RIGHTS ACT dealt with in 1985

APPLICATIONS RECEIVED:

Carried over from previous year	6
Received during the year	34
	40

APPLICATIONS DISPOSED OF:

Heard and compensation determined	17
Settled independently of Board	6
Withdrawn	0
Rejected - lack of jurisdiction	0
	23

APPLICATIONS OUTSTANDING:

Pending hearing	17
Heard - pending decision	0
To be settled privately	0
	17

STATEMENT 9

SURFACE RIGHTS BOARD

SUMMARY OF RATE OF COMPENSATION REVIEWS PURSUANT TO SECTION 28 OF THE SURFACE RIGHTS ACT dealt with in 1985

APPLICATIONS RECEIVED:

Carried over from previous year	0
Received during the year	13
	13

APPLICATIONS DISPOSED OF:

Heard and compensation determined	1
Settled independently of Board	1
Withdrawn	0
Rejected - lack of jurisdiction	0
	2

APPLICATIONS OUTSTANDING:

Pending hearing	10
Heard - pending decision	1
To be settled privately	0
	11

STATEMENT 10

SURFACE RIGHTS BOARD

SUMMARY OF RATE OF COMPENSATION REVIEWS
PURSUANT TO SECTION 29 OF THE SURFACE RIGHTS ACT
dealt with in 1985

APPLICATIONS RECEIVED:

Carried over from previous year	45
Received during the year	125
	170

APPLICATIONS DISPOSED OF:

Heard and compensation determined	79
Settled independently of Board	31
Withdrawn	0
Rejected - lack of jurisdiction	0
	110

APPLICATIONS OUTSTANDING:

Pending hearing	44
Heard - pending decision	2
To be settled privately	14
	60

STATEMENT 11

SURFACE RIGHTS BOARD

SUMMARY OF RATE OF COMPENSATION REVIEWS
PURSUANT TO SECTION 30 OF THE SURFACE RIGHTS ACT
dealt with in 1985

APPLICATIONS RECEIVED:

Carried over from previous year	0
Received during the year	65
	65

APPLICATIONS DISPOSED OF:

Heard and compensation determined	9
Settled independently of Board	15
Withdrawn	0
Rejected - lack of jurisdiction	0
	24

APPLICATIONS OUTSTANDING:

Pending hearing	38
Heard - pending decision	1
To be settled privately	2
	41

STATEMENT 12

SURFACE RIGHTS BOARD

SUMMARY OF SETTLEMENTS OF DISPUTES PURSUANT TO SECTION 33 OF THE SURFACE RIGHTS ACT dealt with in 1985

APPLICATIONS RECEIVED:

Carried over from previous year	0
Received during the year	5
	5

APPLICATIONS DISPOSED OF:

Heard and compensation determined	2
Settled independently of Board	2
Withdrawn	0
Rejected - lack of jurisdiction	0
	4

APPLICATIONS OUTSTANDING:

Pending hearing	1
Heard - pending decision	0
To be settled privately	0
	1

STATEMENT 13

SURFACE RIGHTS BOARD

SUMMARY OF ALL APPLICATIONS FOR RECOVERY OF RENTAL PURSUANT TO SECTION 39 OF THE SURFACE RIGHTS ACT dealt with in 1985

APPLICATIONS RECEIVED:	
Carried over from previous year	17
Received during the year	21
	38
APPLICATIONS DISPOSED OF:	
Completed	20
Rejected - lack of jurisdiction	2
	22
APPLICATIONS OUTSTANDING:	16

STATEMENT 14

SURFACE RIGHTS BOARD

THE EXPROPRIATION ACT

SUMMARY OF NOTICES OF INTENTION TO EXPROPRIATE dealt with in 1985

NOTICES OF INTENTION SERVED ON THE BOARD:

Carried over from previous year	2
Received during the year	0
	2

DISPOSITIONS:

Expropriation abandoned	0
Certificate of Approval Issued:	
Proposed payment of compensation accepted	0
Compensation determined	0
Expropriation terminated	2
Section 30 agreements executed - compensated	0
	2

OUTSTANDING:

Pending issuance of Certificate of Approval	0
Pending compensation hearing	0
Heard - pending decision	0
Reported settled - awaiting documents	0
Section 30 - pending compensation	0
	0

STATEMENT 15

SURFACE RIGHTS BOARD

SUMMARY OF BOARD HEARINGS DURING 1985

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	TOTALS
SCHEDULED	64	53	41	44	42	40	37	29	48	45	44	34	521
Well Sites/ Roadways	30	20	18	27	21	19	14	13	27*	15	16	11	231
Pipelines	16	13	14	3	7	7	4	4	8	11	7	14	108
Powerlines	2	12	2	3	1	0	7	0	0	1	15	5	48
Objections	0	0	0	0	0	1	0	0	0	0	0	0	1
Reviews	16	8	7	6	11	11	12	11	13	16	6	4	121
Damages	0	0	0	1	2	0	0	0	0	2	0	0	5
Inquiries	0	0	0	3	0	0	0	1	0	0	0	0	4
Costs	0	0	0	1	0	2	0	0	0	0	0	0	3
CANCELLED/ SETTLED	21	11	8	8	7	8	7	4	16	15	15	8	128
ADJOURNED/ POSTPONED	3	18	4	9	5	7	4	10	8	14	10	7	99
** HELD & COMPLETED	40	24	29	27	30	25	26	15	24	16	19	19	294

* Coal Mine Hearing

** 71 of the hearings completed were joint hearings involving a total of 241 files.

TOTAL FILES ON WHICH HEARINGS COMPLETED IN 1985: 464.

STATEMENT 16

SURFACE RIGHTS BOARD

SUMMARY OF APPEALS FROM DECISIONS OF THE BOARD TO THE COURTS UNDER THE SURFACE RIGHTS ACT

	BY COMPANIES	BY OWNERS/ OCCUPANTS	TOTAL
Carried over from previous year	58	104	162
Notices filed during 1985	34	111	145
	92	215	307
DISPOSITION OF APPEALS			
Appeals completed by Court of Queen's Bench	7	15	22
Judgements of Court of Queen's Bench appealed to Court of Appeal and completed	1	1	2
Settled out of Court	21	4	25
Abandoned	9	26	35
	38	46	84
OUSTANDING:	54	169	223

STATEMENT 17

SURFACE RIGHTS BOARD

SUMMARY OF APPEALS FROM DECISIONS OF THE BOARD TO THE COURTS UNDER THE EXPROPRIATION ACT

	BY COMPANIES	BY OWNERS/ OCCUPANTS	TOTAL
Carried over from previous year	1	3	4
Notices filed during 1985	0	0	0
	1	3	4
DISPOSITION OF APPEALS			
Appeals completed by Court of Queen's Bench	0	0	0
Judgements of Court of Queen's Bench appealed to Court of Appeal and completed	0	0	0
Settled out of Court	0	0	0
Abandoned	0	0	0
	0	0	0
OUSTANDING:	1	3	4